



**COUNTY OF LOS ANGELES**  
**Internal Services Department**

1100 North Eastern Avenue  
Los Angeles, California 90063



United We Stand

JOAN OUDERKIRK  
Director

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June 27, 2002

The Honorable Board of Supervisors  
County of Los Angeles  
383 Kenneth Hahn Hall of Administration  
500 West Temple Street  
Los Angeles, CA 90012

Dear Supervisors:

**APPROVE THE LOCAL SMALL BUSINESS  
ENTERPRISE PREFERENCE PROGRAM  
(ALL DISTRICTS - 3 VOTES)**

**IT IS RECOMMENDED THAT YOUR BOARD:**

1. Approve the attached ordinance that amends the County of Los Angeles Code to establish a Local Small Business Enterprise Preference Program that provides for a five percent (5%) bid price reduction (i.e., "preference") for County certified Local SBEs during the award determination process. The Ordinance will be applicable to all solicitations issued 90 days after the effective date of the Ordinance.
2. Instruct the Chief Administrative Officer, with the assistance of County Counsel, the Director of Internal Services, and the Affirmative Action Compliance Officer, to develop and issue an implementation plan for the Local Small Business Preference Program, which shall include training of appropriate County contracting staff.

**PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION**

On May 22, 2001 your Board adopted recommendations from the Office of Small Business Advisory Board (currently known as the Small Business Commission) that included an instruction to the Internal Services Department (ISD), working with County Counsel and appropriate departments, to establish a small business preference

program in the County, using the State of California Department of General Services small business program as a guide. This program was recommended in response to one of the Bold Step Forward recommendations designed to "Establish a system of incentives and allowances for small businesses to compete effectively".

### **Implementation of Strategic Plan Goals**

The recommended Local Small Business Enterprise (SBE) Preference Program supports the County's Strategic Plan Goal No. 3, Organizational Effectiveness, and its first supporting strategy which is to implement strategic management processes.

### **FISCAL IMPACT/FINANCING**

The fiscal impact at this time is unknown. Application of the Local SBE Preference is used for determination of the selected vendor. If a Local SBE is recommended for award, the actual award amount will be equal to the Local SBE's proposed price. In some instances the Local SBE will not be the lowest cost and the County will pay more than the lowest price. However, the five percent (5%) Preference amount is capped at \$50,000 per award.

The Office of Affirmative Action Compliance (OAAC) has indicated that additional staff resources will be required to handle the Local SBE certification program workload. In order to provide the appropriate resources for OAAC to implement this program, a vacant budgeted position and Net County Cost (NCC) funding of \$98,000 was recommended for transfer from ISD to OAAC during the FY 2002-03 Final Change process.

### **FACTS AND PROVISIONS/LEGAL REQUIREMENTS**

County Counsel has reviewed the attached ordinance and approved it as to form. The ordinance establishing a Local SBE Preference Program has been developed in response to the Board action. It is applicable to solicitations for the acquisition of goods and services, including construction contracting, and provides for a five percent (5%) bid price reduction (i.e., "preference") for County certified Local SBEs during the award determination process. The Ordinance also provides for exclusions for national contracts, revolving fund (petty cash) purchases, purchase card purchases, non-agreement purchases of less than \$5,000 and any contracts funded by the federal

government where there are conflicting requirements for minority or women owned business participation.

In order for a Local SBE to claim the preference, the business must request it in their solicitation response. No preference is applied in those cases where a Local SBE is already the lowest bidder (i.e., since the firm would receive the award anyway). Otherwise, application of the preference is determined as follows:

For solicitations that are based on the lowest bid, the preference to be granted to each Local SBE shall be equal to five percent (5%) percent, of the lowest bid amount.

For solicitations that are based on factors other than just the lowest price, the preference to be granted to each Local SBE shall be equal to five percent (5%) of the price component of the highest scoring proposal.

Typically, in contracts for services, price is only one of several other factors (e.g., qualifications, implementation approach, references, etc.) that are rated in arriving at a winning bid. In these cases, the price component of each Local SBE's bid will be scored based on their original bid price less the preference amount.

- In all cases, the Local SBE Preference shall not exceed fifty thousand dollars (\$50,000) for any one solicitation.

The Program is based on the State of California Department of General Services small business program except in terms of defining a local business. The State program applies to any vendor with a principal office located within the State of California. For the County program, a business must be certified by the State as a small business; and have its principal office located in Los Angeles County for at least one year.

In order to implement this Program

The Chief Administrative Officer (CAO), with the assistance of County Counsel, ISD, and OAAC, shall issue a Local SBE Preference Program implementation plan within 90 days of the Ordinance being approved. ISD will coordinate appropriate staff training in concert with the County-wide Contracting Network.

- OAAC will be responsible for verifying local eligibility for SBEs already certified by the State of California.

The Office of Small Business (OSB) will make businesses aware of the Local SBE Preference Program through its ongoing outreach activities and provide information regarding the Program on the OSB website.

- The County "How to do Business with Los Angeles County" website will be updated to include Local SBE Preference Program information.

Department staff will be responsible for implementing the SBE Preference Program and for maintaining appropriate documentation to support the application of Local SBE Preference for individual solicitations for goods and services. The Implementation Plan will provide instructions regarding appropriate language to include in solicitation documents to notify vendors about the Preference Program, as well as instructions on tracking participation of Local SBEs in the County's purchasing and contracting processes.

Currently, the web-based vendor registration system ("WebVen") allows vendors to register online and provide their information and business demographics, including small business certification status. This system interfaces with the County's consolidated bid web page, which captures solicitation and award information for all purchases and contracts over \$10,000 to any registered vendor including size of business, by number of employees and annual gross revenue, in addition to small business certification. ISD, in concert with the Office of Small Business, is finalizing criteria and formats for reports designed to measure the success of the Local Small Business Enterprise Preference Program.

### **CONTRACTING PROCESS**

Not applicable

### **IMPACT ON CURRENT SERVICES (OR PROJECTS)**

Although the SBE Preference Program will require some additional work on the part of departmental purchasing and contracting staff, it is not anticipated that the program will directly impact delivery of County services.

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**CONCLUSION**

We will provide your Board with a status report on the Local SBE Program six months after issuance of the implementation plan.

Respectfully submitted,



JOAN OUDERKIRK  
Director

Respectfully submitted

DAVID E. JANSSEN  
Chief Administrative Officer

Respectfully submitted,

Respectfully submitted

DENNIS A. TAFOYA  
Director  
Office of Affirmative Action Compliance

CARLOS JACKSON  
Executive Director  
Community Development Commission

JO:DB:kh  
Attachment (1)  
c: Executive Officer, Board of Supervisors  
County Counsel  
Auditor-Controller

## ANALYSIS

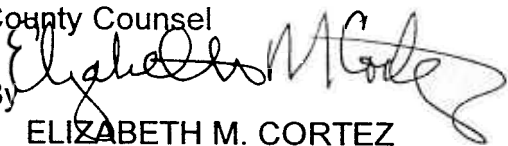
This ordinance adds Chapter 2.204 to Title 2 - Administration of the County Code to establish a Local Small Business Enterprise Preference Program. The purpose of the program is to enhance contracting and purchasing opportunities for certified local small businesses within the County of Los Angeles.

In addition, the Chapter establishes procedures to monitor compliance and provides for penalties for improper certification.

LLOYD W. PELLMAN

County Counsel

By

  
ELIZABETH M. CORTEZ

Principal Deputy County Counsel  
Special Services Division

EMC:mv  
06/13/02

## **ORDINANCE NO.**

An ordinance adding Chapter 2.204 to Title 2 - Administration of the Los Angeles County Code relating to the Local Small Business Enterprise Preference Program.

The Board of Supervisors of the County of Los Angeles ordains as follows:

**SECTION 1.** Section 2.204 is hereby added to Title 2 - Administration of Los Angeles County Code to read as follows:

### **Chapter 2.204**

#### **LOCAL BUSINESS ENTERPRISE PREFERENCE PROGRAM**

##### **Sections:**

- 2.204.010 Introduction.
- 2.204.020 Purpose.
- 2.204.030 Definitions.
- 2.204.040 Administration.
- 2.204.050 Certification as a local small business enterprise.
- 2.204.060 Responsibilities and standards.
- 2.204.070 Exclusions.
- 2.204.080 Violations and sanctions.
- 2.204.090 Appeals for reconsideration of local small business enterprise certification.
- 2.204.100 Applicability.

**2.204.010. Introduction.** The Board of Supervisors finds that it is of benefit to the County of Los Angeles to promote and facilitate the fullest possible participation by all citizens in the affairs of the County in every way possible. It is also essential that opportunities be provided for full participation in our free enterprise system by small business enterprises. Further, it is the policy of the Board that the County should aid and assist, to the maximum extent possible, the interests of local small business concerns in order to preserve free competitive enterprise and to ensure that a fair proportion of the total purchases and contracts or subcontracts for purchase of goods or services for the County be placed with such enterprises.

**2.204.020. Purpose.** The County of Los Angeles Local Small Business Enterprise Preference Program is a race and gender-neutral program designed to enhance purchasing and contracting opportunities for local small businesses within the County of Los Angeles. The program priorities were developed to promote and foster inclusiveness and economic development; as well as ongoing evaluation to assure all businesses, including local small businesses are provided equal opportunities in County purchasing and contracting activities.

**2.204.030. Definitions.** For the purpose of this Chapter, the following words and phrases are defined and shall be construed as having the following meaning:

A. "County" shall mean the County of Los Angeles or any public entities for which the Board of Supervisors is the governing body.



B. "Department" shall mean the County department, entity, or organization responsible for the solicitation.

C. "Local Small Business Enterprise" shall mean:

- 1 A business having its principal office located in Los Angeles County for at least one year; and
2. A business certified as a small business by the State of California.

D. "Solicitation" shall mean the County's process to obtain bids or proposals for goods and services.

**2.204.040. Administration.** The Chief Administrative Officer (CAO) with the assistance of County Counsel (COCO), Internal Services Department (ISD), and the Office of Affirmative Action Compliance (OAAC), shall issue interpretations of the provisions of this Chapter, and shall issue written instructions on the implementation and ongoing administration of this Chapter. Such instructions may provide for the delegation of functions to other departments.

**2.204.050. Certification as a local small business enterprise.** OAAC shall be responsible for verifying that a local small business is already certified as a small business by the State of California and that the business has its principal office located in Los Angeles County. OAAC shall certify Local Small Business Enterprises and maintain records of the certified businesses and their participation in County purchasing and contracting.

**2.204.060. Responsibilities and standards.**

A. In order to facilitate the participation of local small business enterprises in County purchases of good and services, County departments shall provide for Local Small Business Enterprise preferences in their purchase of goods and services where responsibility and quality are equal.

B. In solicitations where an award is to be made to the lowest responsible bidder meeting specifications, the preference to the Local Small Business Enterprise shall be five percent (5%) of the lowest responsible bidder meeting specifications, determined according to the instructions issued by the CAO.

C. In solicitations where an award is to be made to the highest scored proposer based on evaluation factors in addition to price, the preference to the Local Small Business Enterprise shall be five percent (5%) of the cost/price component of the evaluation method, determined according to the instructions issued by the CAO.

D. The Local Small Business Enterprise preference under paragraph B and C shall not exceed fifty thousand dollars (\$50,000) for any one solicitation and award determination.

E. In order for a Local Small Business Enterprise to be eligible to claim the preference, the business must request the preference in the solicitation response.

**2.204.070. Exclusions.** The Local Small Business Enterprise Preference shall not be given for the following County purchases:

A. National contracts established for the purchase of equipment and supplies for and by the National Association of Counties, U.S. Communities Government Purchasing Alliance, or any similar or related group purchasing organization.

B. A revolving fund (petty cash) purchase pursuant to the Los Angeles County Fiscal manual, section 4.40 or a successor provision.

C. A purchase card purchase pursuant to the Los Angeles County Purchasing Policy Manual, section P-2810 or a successor provision.

D. A non-agreement purchase with a value of less than \$5,000 pursuant to the Los Angeles County Purchasing Policy Manual, section A-03000 or a successor provision.

E. Any contract, funded in whole or in part by the federal government, to the extent of any conflict between the requirements imposed by the federal government relating to participation in a contract by a minority or women business enterprise as a condition of the receipt of the federal funds.

**2.204.080. Violations and sanctions.**

A. The information furnished by each solicitation respondent requesting a Local Small Business Enterprise Preference shall be under penalty of perjury.

B. No person or business shall knowingly and with intent to defraud, fraudulently obtain, retain, attempt to obtain or retain, or aid another in fraudulently obtaining or retaining or attempting to obtain or retain certification as a Local Small Business Enterprise for the purpose of this Chapter.

C. No person or business shall willfully and knowingly make a false statement with the intent to defraud, whether by affidavit, report, or other representation, to a County official or employee for the purpose of influencing the certification or denial of certification of any entity as a Local Small Business Enterprise.

D. A business which has obtained County certification as a Local Small Business Enterprise by reason of having furnished incorrect supporting information or by reason of having withheld information, and which knew, or should have known, the information furnished was incorrect or the information withheld was relevant to its request for certification, and which by reason of such certification has been awarded a contract to which it would not otherwise have been entitled, shall:

- 1 Pay to the County any difference between the contract amount and what the County's costs would have been if the contract had been properly awarded;
2. In addition to the amount described in subdivision (1), be assessed a penalty in an amount of not more than 10 percent (10%) of the amount of the contract involved; and

3. Be subject to the provisions of Chapter 2.202 of the County Code (Determinations of Contractor Non-responsibility and Contractor Debarment).

E. The above penalties shall also apply to any business that has previously obtained proper certification, however, as a result of a change in their status would no longer be eligible for certification, and fails to notify the State and OAAC of this information prior to responding to a solicitation or accepting a contract award.

**2.204.090. Appeals for reconsideration of local small business enterprise certification.** OAAC will investigate any complaint of eligibility received by the County concerning the Local Small Business Enterprise Preference Program.

**2.204.100. Applicability.** This chapter shall apply to all solicitations issued ninety (90) days after the effective date of the ordinance.

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